

Application Number	21/00471/LB
Site Address	42 Foregate Street, Worcester, WR1 1EE
Description of Development	Mixed-use refurbishment retaining Commercial use (Class E) with 13 studio flats
Expiry Date	28 October 2021 An extension of time has been sought.
Applicant	Foregate Regeneration Ltd
Agent	Mr Nick Carroll
Case Officer	Tom Gabriel
	thomas.gabriel@worcester.gov.uk
Ward Member(s)	Cathedral Ward
Reason for Referral to Committee	Major application
Key Issues	Whether the proposed development would have an acceptable impact upon the setting and historic nature and fabric of the listed building
Web link to application	
Recommendation	That the Planning Committee grants listed building consent subject to:- i) the conditions set out in section 9 of this report; and ii) the grant of a satisfactory planning permission

1. Background

- 1.1 The application was registered on 17 May 2021 and was due for a decision on 12 July 2021. An extension of time to 28 October has been agreed and a further extension is being sought.
- 1.2 The application has been referred to the Planning Committee in accordance with the adopted Scheme of Delegation.

2. The site and surrounding area

- 2.1 The site is located within the Development Boundary for Worcester.



The application site

- 2.2 The application site is in Cathedral ward, and is located on, and to the rear of, the A449, the principle entry to the city centre from the north. The site comprises vacant offices. There are a variety of uses within the surrounding area including commercial, restaurant, retail and residential uses, plus several public houses. The wider area is generally characterised by similar commercial, retail and residential uses. There are many listed buildings in the immediate vicinity, including Nos.46-33 Foregate Street (except Nos.44 & 36). In contrast, Farrier Street does not have any listed buildings.
- 2.3 The application site is listed grade II and situated within the Foregate Street and The Tything Conservation Area. It was built as a house in the mid-18th century and has had later additions and alterations. Listed on 22 May 1954, it forms a good group with the Shire Hall, Statue of Queen Victoria, City Museum and Library and Nos.15, 19, 22, 23, 24, 28, Nos.33-46 (consecutive) and No.40 Foregate Street.
- 2.4 The building is four storey with a rendered and white painted frontage at ground and first levels. The building has a small canopy above the front door with a pillar either side of the door. The front elevation of the building at ground floor level is dominated by a large window, though the fenestration to the upper floors are aligned sash windows with Georgian glazing bars. The building forms a visual focal point of this part of the street scene by virtue of its height standing proud of the neighbouring buildings and its rendered frontage. To the rear of the building, the site is laid to hardstanding and used for parking.

3. The proposals

- 3.1 It is proposed to undertake a mixed- use refurbishment of the building, retaining the commercial use (Class E) at ground floor level with 13 studio flats on the upper floors.
- 3.2 The converted building would retain a commercial unit on the Foregate Street frontage of 45.53 m², while the 13 residential units would range between 17.95m² and

31.54m². The differing sizes would be dictated by the original floor layout of the building.

3.3 The application is accompanied by a full set of plans together with the following supporting documents:

- Heritage Statement (Revised)
- Design & Access Statement
- Planning Statement

3.4 In accordance with Article 15 (7) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), full details of the application have been published on the Council's website. As such, Members will have had the opportunity to review the submitted plans and documents in order to familiarise themselves with the proposals prior to consideration and determination of the application accordingly.

4. Planning Policy

4.1 The Town and Country Planning Act 1990 ('the Act') establishes the legislative framework for consideration of this application. Section 70(2) of the Act requires the decision-maker in determining planning applications/appeals to have regard to the Development Plan, insofar as it is material to the application/appeal, and to any other material considerations. Where the Development Plan is material to the development proposal it must therefore be taken into account. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application/appeal to be determined in accordance with the Plan, unless material considerations indicate otherwise.

4.2 Paragraph 200 of the NPPF states that "Local Authorities are called to look for opportunities for new development within conservation areas and the setting of heritage assets to enhance or better reveal their significance" and that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area" (paragraph 130). This is further reflected in South Worcestershire Development Plan policies SWDP 6 and SWDP 24 which seek to protect and enhance designated and non-designated heritage assets and guide against development that would cause substantial harm to the significance of any heritage asset. Policy SWDP 21 of the Local Plan provides generic design principles for development proposals and states that all development will be expected to be of a high design quality and integrate effectively with its surroundings and that development proposals must complement the character of the area. Development proposals should respond to surrounding buildings and the distinctive features or qualities that contribute to the visual and heritage interest of the townscape, frontages, streets and landscape quality of the local area. The scale, height and massing of development must be appropriate to the setting of the site and the surrounding landscape character and townscape, including existing urban grain and density.

4.3 The key legal provisions relating to the consideration of heritage assets in the planning system are s72 (1) and s66 (1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" and "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

4.4 The Development Plan for Worcester now comprises:

- The South Worcestershire Development Plan (SWDP) which was adopted in February 2016, and;

- The Worcestershire Waste Core Strategy, which was adopted in December 2012.

South Worcestershire Development Plan

4.5 The following policies of the SWDP are considered to be relevant to the proposal:

SWDP 6 – Historic Environment

SWDP 21 – Design

SWDP 24 – Management of the Historic Environment

Material Considerations

1. National Planning Policy Framework

- 4.6 The current version of the National Planning Policy Framework (NPPF) was published and adopted in July 2021. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It constitutes guidance for local planning authorities and decision takers and is a material planning consideration in determining planning applications.
- 4.7 The NPPF outlines a series of considerations against which delivering sustainable development should be assessed. Paragraph 38 states local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 4.8 The Government believes that sustainable development can play three critical roles in England: an economic role, contributing to a strong, responsive, competitive economy; a social role, supporting vibrant and healthy communities; and an environmental role, protecting and enhancing our natural, built and historic environment.

2. National Planning Practice Guidance

- 4.9 On 6th March 2014 the Government also published National Planning Practice Guidance (NPPG) that has been updated in the meantime and comprises, amongst other matters, a section about the Historic Environment.

3. Supplementary Planning Documents

- 4.10 The following Supplementary Planning Document (SPD) is relevant to the application proposals: -

- South Worcestershire Design SPD

The South Worcestershire Design SPD was adopted on 5th March 2018 and replaces the previous Supplementary Planning Guidance Note 3: Design (SPG3). Both documents encourage high standards of design for development proposals in accordance with the aims and interests that the NPPF seeks to protect and promote in this regard. The Design Quality SPD is consistent with the planning policies in the SWDP.

4. Relevant Legislation

- 4.11 The following legislation is also relevant and has been taken into account when considering this application: -

Town and Country Planning Act 1990 (as amended)
Planning Act 2008
Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

5. Planning History

- 5.1 There is an extensive planning history to the site though none of it is considered directly relevant to the current application. The building has been in office use since at least 1964, first by an estate agent and more recently by a firm of solicitors.
- 5.2 There is an associated planning application for a mixed-use refurbishment retaining Commercial use (Class E) with 13 studio flats under application 21/00470/FUL on the same agenda.

Public Consultation by Applicant

- 5.3 None

6 Consultations

- 6.1 Formal consultation, including the display of site notices, has been undertaken in respect of the application. The following comments from statutory and non-statutory consultees and interested third parties have been received in relation to the original and are summarised below. The scheme has been amended to address the concerns which relate to the proposed new building at the rear which has now been removed from the scheme. Amended plans have been received and consultees have been re-consulted. Any responses received will be reported by way of either a late paper or verbal update to committee.

Neighbours and other third-party comments: One objection has been received from residents of 40- 41 Foregate Street that is summarised below:

- the height of the new build development at the rear of the site, blocking sunlight to the rear garden of 40-41 Foregate Street; and
- the opportunity should be taken in the development to re- model the rainwater discharge that runs through the roof of 41 and causes flooding.

Conservation Advisory Panel: It was agreed that the proposal would be a harmful infilling of one of the few remaining open 'back land' sites in Farrier Street. It would obscure the view of the main listed buildings and this would cause considerable harm to the character of the Conservation Area i.e. loss of back land space and blocking views of the listed buildings. This is noted in the Conservation Area Appraisal, which, as published evidence, is a material consideration. The Panel noted that there are other tall structures in the area but considered that this places even more importance on the need to keep these few remaining back land areas open and undeveloped. The Panel object in principle due to the harmful effect on the character of the Conservation Area.

Historic England: Whilst we defer to the local authority's Conservation Officer to consider the finer details of the proposed alterations to the listed building, we do have concerns regarding the design of the proposed new building at the rear.

An important contributor to the significance of the Conservation Area is in its form of development, clearly marking its medieval burgage plots, with principal buildings along Foregate Street and smaller ancillary structures to the rear.

Despite some later development, this important hierarchy can still be observed along Farrier Street and much of the wider Conservation Area.

The design, scale and massing of the proposed building does not follow this significant characteristic, however. Instead, the proposal results in an overbearing building of excessive height, scale and massing, and whose design offers no reference to its host listed building, the Conservation Area, numerous other listing buildings, nor to local character or distinctiveness.

It does not therefore meet the requirement of the NPPF for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance.

If the local authority accepts the principle of development at the rear of this plot, any addition should preserve or enhance the distinctive qualities of this area.

The scheme requires a greatly reduced, and fundamentally different approach to its design, better reflecting those characteristics of rear ancillary buildings in the Conservation Area.

Recommendation: Historic England has concerns regarding the application on heritage grounds. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Material changes were made to the design of the new block to the rear and Historic England were reconsulted upon these: Thank you for your letter of 3 September 2021 regarding further information on the above applications for listed building consent and planning permission. On the basis of this information, we do not wish to offer any further comments than those already expressed in our letter of 11 June 2021. We suggest that you seek the views of your specialist conservation adviser.

- 6.2 Members have been given the opportunity to read all representations that have been received in full. At the time of writing this report, no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.
- 6.3 In assessing the proposal due regard has been given to local residents' comments as material planning considerations. Nevertheless, I am also mindful that decisions should not be made solely on the basis of the number of representations, whether they are for or against a proposal. The Localism Act has not changed this, nor has it changed the advice that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons.

7. Comments of the Corporate Director – Planning and Governance

- 7.1 Policy SWDP 6 of the South Worcestershire Development Plan – Historic Environment – states 'Development proposals should conserve and enhance heritage assets, including assets of potential archaeological interest, subject to the provisions of SWDP 24. Their contribution to the character of the landscape or townscape should be protected in order to sustain the historic quality, sense of place, environmental quality and economic vibrancy of South Worcestershire. Development proposals will be supported where they conserve and enhance the significance of heritage assets, including their setting'.

Policy SWDP 24 of the Development Plan – Management of the Historic Environment – states ‘Development proposals affecting heritage assets will be considered in accordance with the Framework, relevant legislation and published national and local guidance. Proposals likely to affect the significance of a heritage asset, including the contribution made by its setting, should be accompanied by a description of its significance in sufficient detail to allow the potential impacts to be adequately assessed. The sympathetic and creative reuse and adaptation of historic buildings will be encouraged’. Policy SWDP 21 of the Development Plan – Design – states ‘All development will be expected to be of a high design quality. It will need to integrate effectively with its surroundings, in terms of form and function, reinforce local distinctiveness and conserve, and where appropriate, enhance cultural and heritage assets and their settings’.

- 7.2 The requirements of Policies SWDP 6 and 24 are re- iterated by section 16 of the NPPF. The requirements of Policy 21 are re- iterated by section 12 of the NPPF.
- 7.3 The proposed conversion of 42 Foregate Street from the existing offices to the mixed commercial use at ground floor level and the flats in the upper floors would better reveal the original and historical nature of the listed building while removing non-original fabric from the building and retaining the original fabric. Many partitions added over the decades of office use would be removed and the rooms would be returned to their original sizes and configurations. This would be of significant benefit to the historical character of the building. No objections are expressed to this aspect of the proposals. The retention of commercial activity on the Foregate Street frontage is also welcomed in historical terms. The development also proposes repair works to the windows where necessary. If carried out in a sympathetic manner, this would not cause harm to the historic nature of the listed building.
- 7.4 The concerns raised by the objector to the proposed development are noted. However, as they refer to a part of the proposal which has been deleted from the scheme, it is not considered necessary to address them in this report.

8. Conclusion and planning balance

- 8.1 The proposed development would bring the listed building at 42 Foregate Street into use, it having been vacant for two years. Through the proposed works, the development would remove non- original fabric from the building and would better reveal the historic nature, character and significance of the building. This would be in accordance with the relevant local and national planning policies.

9 Recommended Conditions

- 9.1 In the event that members resolve to grant planning permission the following conditions are recommended:
1. The works to which this Listed Building Consent relates must be commenced before the expiration of three years beginning with the date of this consent.

Reason: To conform with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out and completed in accordance with the following approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission

Design and Access Statement
Planning Statement
2024 - P - 02 – Existing Layout
2024 - P - 03D – Proposed Layout (floor plans)
2024 - P - 04B – Proposed Elevations
2024 - P - 05A – Location & block plans

Reason: To ensure compliance with the approved scheme

3. Before the first use/occupation of the development hereby permitted a scheme of noise attenuation shall be submitted to and approved in writing by the local planning authority. The scheme shall include noise mitigation measures as appropriate to minimise the level of noise experienced by the residents of the development from Foregate Street and from the commercial and the other residential units in the property and how the measures shall be installed in the building without harming the historic fabric of the building. The scheme shall be implemented before the first use of the development and shall be retained thereafter.

Reason: To ensure the proposal preserves residential amenity and to prevent unacceptable noise pollution to the detriment of human health and to ensure that the development has an acceptable impact upon the fabric of the listed building, in accordance with policies SWDP6, SDWP24 and SWDP31 of the South Worcestershire Development Plan.

INFORMATIVE

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.